

This letter provides a reference to the Department's rules regarding the Rolling Stock Exemption. See 86 Ill. Adm. Code 130.340. (This is a GIL.)

November 8, 2004

Dear Xxxxx:

This letter is in response to your letter dated December 1, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC provides a complete solution for financial transactions that require the determination, calculation, and reporting of U.S. sales and use tax. The ABC system automatically determines sales and use tax for all state, county, city, transit or special district taxes associated with a given address. ABC also provides product taxability. ABC determines whether particular products are taxable or exempt, and customers map their products to our product listing.

We are seeking guidance on the taxability of transportation services. Our specific product taxability questions are detailed below. It would be helpful to us if you indicate any statutes or authorities you use.

Questions:

1. Are transportation services subject to sales or use tax in Illinois?
2. How does the taxability for intrastate transportation services differ from interstate transportation services?

Thank you for your assistance in this matter.

DEPARTMENT'S RESPONSE:

You inquired whether transportation services are subject to sales or use tax. Personal services are not subject to sales or use tax in Illinois. See 86 Il. Adm. 130.120(d). Tax is imposed under the Service Occupation Tax, however, on persons engaged in this State in the business of making sales of service, based on tangible personal property transferred incident to sales of service. (See 86 Il. Adm. 140.101).

While the service provided is not subject to tax, tax is imposed on the purchase of the equipment to provide these services, unless that equipment is exempt under the "rolling stock" exemption. This exemption is available for sales of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer executed or in effect at the time of purchase by interstate carriers for hire for use as rolling stock moving in interstate commerce. In addition, notwithstanding the fact that the sale is at retail, the Retailers' Occupation Tax does not apply to sales of tangible personal property to owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce as long as so used by the interstate carriers for hire. (See Il. Adm. 130.340).

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk